

**THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Serial No.: 10/664,737  
Filed: September 18, 2003  
Inventors: Chester L. Smitherman  
Leo J. Peters III  
Tuy Vu Mai  
Title: Vehicle Based Data Collection and Processing System  
Assignee: M7 Visual Intelligence, LP  
Group Art Unit: 3661  
Customer No.: 40184  
Examiner: Unknown

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL),  
PETITION UNDER 37 CFR § 1.47(a) – REFUSAL TO SIGN, AND  
PETITION FOR EXTENSION OF TIME**

Dear Sir:

**I. RESPONSE TO NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)**

Assignee submits this Response to the Notice of Incomplete Reply (Nonprovisional), mailed January 29, 2004.

As required by the Notice of Incomplete Reply (Nonprovisional), Assignee submits herewith:

1. A Petition Under 37 CFR § 1.47(a) – Refusal to Sign, for inventor Leo J. Peters III, with the required \$130.00 fee;
2. A Petition for Extension of Time, with the required \$55.00 fee;
3. A copy of the Notice of Incomplete Reply (Nonprovisional); and

4. A late Declaration surcharge fee of \$65.00 for the Declaration of Tuy Vu Mai, filed October 20, 2003.

## **II. PETITION UNDER 37 CFR § 1.47(a) – REFUSAL TO SIGN**

Assignee hereby petitions, pursuant to 37 CFR § 1.47(a), for the waiver of the requirement of 37 CFR § 1.63 that each inventor execute an oath or declaration. Assignee obtained ownership of said invention through Assignments from (1) inventors Chester L. Smitherman, Tuy Vu Mai, and Leo J. Peters III to Visual Intelligence Systems, Inc.; (2) Visual Intelligence Systems, Inc. to VISI Technology, Ltd.; and from (3) VISI Technology, Ltd. to M7 Visual Intelligence, LP. These Assignment have been recorded with the U.S. Patent and Trademark Office assignment records. **See Exhibit 1**, a true and correct copy of the Assignments. Assignee has appointed the undersigned to act on its behalf. **See Exhibit 2**, a true and correct copy of the Appointment of Attorneys Under 37 CFR §§ 3.71 and 3.73.

Inventor Leo J. Peters III has refused to execute the required § 1.63 declaration. Inventors Chester L. Smitherman and Tuy Vu Mai have both executed declarations. **See Exhibit 3**, a true and correct copy of the Declarations as filed on September 18, 2003 and October 20, 2003, respectively. Assignee has attempted to contact Mr. Peters at his last known address, 129 Phanturn, Bellaire, Texas 77401, on a number of occasions. Documentation of one of the attempts, as indicated by U.S. Express Mail receipt dated September 26, 2003, shows that Mr. Peters received a copy of the Declaration and Power of Attorney. **See Exhibit 4**, a true and correct copy of the cover letter dated September 26, 2003, detailing the contents of the mailing.

Inventor Leo J. Peters, III executed an Assignment on September 26, 2002, for this invention and related patent applications, which states that applicant will make rightful declarations and do everything possible to aid Assignee to obtain and enforce proper protection for the invention. This Assignment was recorded with the U.S. Patent and Trademark Office assignment records at Reel 013324 and Frame 0975. **See Exhibit 1**.

Assignee submits that Mr. Peters should be deemed to have received adequate opportunity to execute the Declaration. His failure to return the executed Declaration and his oral communications with

the undersigned, demonstrate his intention to refuse to participate in Application Serial No. 10/664,737.

**See Exhibit 5**, Declaration of R. Bradford Perry.

In light of the described situation, Assignee respectfully requests that the requirement for Mr. Peters to execute the § 1.63 oath or declaration be waived for Application Serial No. 10/664,737. The petition fee in the amount of \$130.00 as required by 37 CFR § 1.17(h) is enclosed herewith.

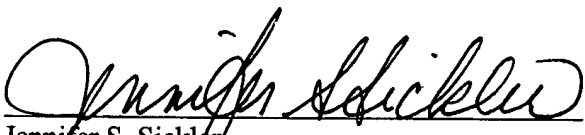
### **III. PETITION FOR EXTENSION OF TIME**

Assignee hereby petitions for a one-month extension of time to file a response, from March 29, 2004 to April 29, 2004, pursuant to 37 CFR § 1.136(a). Assignee submits a check in the amount of \$55.00 pursuant to CFR § 1.17(a)(1).

### **IV. CONCLUSION**

Assignee respectfully submits that all required parts for the application have been filed and that no additional fees are required. It is believed that no other fees are necessary. However, if this is incorrect, the Commissioner is hereby authorized to charge any underpayment, or credit any overpayment, to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP.

Dated: 4/28/04

  
Jennifer S. Sickler  
Attorney for Assignee  
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**DECLARATION OF R. BRADFORD PERRY  
IN SUPPORT OF PETITION UNDER 37 CFR § 1.47(a) – REFUSAL TO SIGN**

I, R. Bradford Perry, hereby declare as follows:

1. I am over twenty-one (21) years of age and am otherwise competent to make this Declaration. I am employed by M7 Visual Intelligence, LP as President. In this capacity, I have personal knowledge of all matters stated herein or have based them upon information and belief after reasonable investigations. My business address is 1505 Highway 6 South, Suite 380, Houston, Texas 77077.
2. M7 Visual Intelligence, LP (Assignee) obtained ownership of said invention through Assignments from (1) inventors Chester L. Smitherman, Tuy Vu Mai, and Leo J. Peters III to Visual Intelligence Systems, Inc.; (2) Visual Intelligence Systems, Inc. to VISI Technology, Ltd.; and from (3) VISI Technology, Ltd. to M7 Visual Intelligence, LP.

3. Assignee appointed the law firm of Gardere Wynne Sewell LLP to act on its behalf, in particular, to prosecute U.S. Patent Application Serial No. 10/664,737 (and U.S. Provisional Application No. 60/412,504).
4. Leo J. Peters III executed an assignment on September 26, 2002, which states that he will make rightful declarations and do everything possible to aid Assignee to obtain and enforce proper protection for the invention, assigning title to the invention and the related patent applications to Assignee. The Assignment has been recorded with the U.S. Patent and Trademark Office assignment records at Reel 013324, Frame 0975.
5. The last known address of Leo J. Peters III is 129 Phanturn, Bellaire, Texas 77401.
6. Assignee, through its attorney, sent Leo J. Peters III a letter dated September 26, 2003, enclosing a Declaration for execution. Assignee and Assignee's attorney also have had verbal communications with Leo J. Peters III regarding his execution of the Declaration. Mr. Peters has indicated that he will not sign the declaration, and he has failed to do so. Neither Assignee nor its attorney have received an executed Declaration from Leo J. Peters III, despite the passing of seven months since the request.

I declare under penalty of perjury under the laws of the State of Texas and the United States of America, that the foregoing is true and correct and that this Declaration was executed on 27 April, 2004, at Houston, Texas.

By: 

R. Bradford Perry



Attorney(s): Jennifer S. Sickler

Client/Matter#: 127976-1000

Title: Vehicle Based Data Collection and Processing System

Inventor(s): Chester L. Smitherman, et al.

Assignee: M7 Visual Intelligence, LP

Today's Date: 4/29/04 Due Date: 4/29/04 (3/29/04)

Check Amount: \$250

Serial/Patent No.: 10/664,737

Issue Date:

Date Filed with USPTO: 9/18/03

APPLICATION FOR PATENT [Check all items that apply]:

- ☐ Spec pages ☐ Claims pages
- ☐ Drawings ☐ Sheets
- ☒ Declarations (inventors)
- ☒ Declaration (B. Perry)
- ☒ Appointment of Attorney (copy)
- ☒ Assignments (4) (copy)
- ☐ Continuation ☐ Divisional
- ☐ CIP Application
- ☐ Preliminary Amendment
- ☐ Information Disclosure Statement
- ☐ Utility Transmittal
- ☐ Fee Calculation Transmittal
- ☐ Amendment After Final

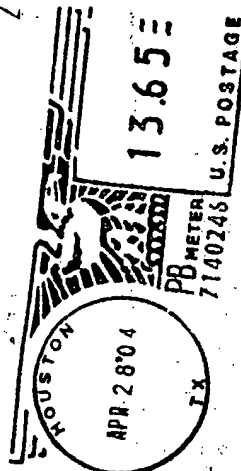
- ☐ Issue Fee Transmittal
- ☒ Copy of Letter to Leo Peters dated 9/26/03
- ☐ Notice of Appeal
- ☐ Maintenance Fee Transmittal Form
- ☒ Other: Copy of Notice of Incomplete Reply; late declaration fee \$65.00
- ☒ Response to Notice of Incomplete Reply
- ☒ Petition Under 37 CFR 1.47(a), w/\$130
- ☒ Petition for Extension of Time, w/\$55
- ☒ Express Mail EV480190868US
- ☒ Certificate of Mailing
- ☐ First Class Mail

JENNIFER S. SICKLER  
GARDNER WYNNE SEWELL, LLP  
INTELLECTUAL PROPERTY SECTION  
1000 LOUISIANA STREET, SUITE 3400  
HOUSTON, TEXAS 77002



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